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KECK, MAHIN & CATE

FILE NUMBER 45691-434

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MAY 12 1994

May 12, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

HAND DELIVER

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

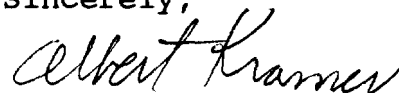
**NOTICE OF WRITTEN
EX PARTE PRESENTATION**

Re: Re: CC Dkt. No. 92-77
Notice Of Written Ex-Parte Presentation

Dear Mr. Caton:

Enclosed are two copies of a written Ex Parte communication transmitted to Chairman Reed E. Hundt in the above referenced docket.

Sincerely,



Albert H. Kramer

AK:rw
Enclosures

No. of Copies rec'd
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042

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May 12, 1994

HAND DELIVER

Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Room 814
Washington, D.C. 20554

Re: In the Matter of Billed Party Preference for 0+
InterLATA Calls: CC Docket No. 92-77

Dear Chairman Hundt:

I am writing on behalf of the American Public Communications Council ("APCC") regarding the Commission's proposal to impose a mandatory system of billed party preference ("BPP").

It is not APCC's intent to address in even summary fashion the overwhelming weight of the record showing that BPP is an idea whose time has passed. It is worth mentioning, however, that more than five years after the initiation of this phase of the BPP proceeding, there is continuing and increasing opposition to this proposal from all affected industry segments. Last week, for example, even while revising its estimate of the implementation cost of BPP, NYNEX reiterated that it remains opposed to mandatory deployment of BPP;¹ BellSouth reaffirmed its opposition to the proposal. Bell Atlantic, the party that initiated this phase of the proceeding, formally informed the Commission that it now opposes the implementation of BPP. The largest interexchange carrier ("IXC") --AT&T-- remains unequivocally opposed to BPP, as do most of the smaller IXCs, as well as hundreds of companies that

¹ See ex parte submission of NYNEX Telephone Companies, April 28, 1994.

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provide telephone equipment for public use or own retail establishments and other businesses where public telephone equipment is provided. Even the major consumer and end user groups have not supported BPP, and one major user group has stated its opposition.

Whatever the merit of BPP at the time it was first advanced, the problems that BPP was intended to address have been resolved by the implementation of operator service legislation and the extensive promotion of access code dialing by IXCs. The costs of mandatory BPP now clearly outweigh its benefits. And crucial issues affecting the implementation of BPP remain unresolved, including such details as how independent public payphone providers will receive dial-around compensation if BPP is implemented.

For all these reasons, the Commission should take this opportunity to put the issue of BPP to rest once and for all by terminating this proceeding. If, however, the Commission decides to keep this docket open and issues a further notice of proposed rulemaking, it should expressly recognize that the record in this proceeding does not support going forward with BPP at this time. Indeed, it would be inconsistent for the Commission to express any belief or conclusion in support of the merits of BPP at the same time the Commission finds it necessary to issue an additional request for information to explore BPP --five years after the commencement of the proceeding.

In this regard, the manner in which a further notice is framed and the language the Commission uses is particularly important to guide the parties in submitting further comments. There is a particularly strong "institutional" interest in having a notice that is evenhanded and neutral in its approach. This will encourage the full participation of all parties and the development of as full a record as possible as the "new" record is compiled for a full complement of Commissioners. Further, since it would be inconsistent for the Commission to support BPP as in the public interest, if the Commission wishes to continue the proceeding, it must broaden the scope of the inquiry. The Commission should invite the parties to explore alternatives to BPP that could be implemented to address

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any residual concerns about the operation of the 0+ calling marketplace.

Sincerely,

A handwritten signature in cursive script, appearing to read "Albert H. Kramer".

Albert H. Kramer
Attorney for the American Public
Communications Council

AHK:rw

cc: Honorable Andrew C. Barrett
Honorable James H. Quello
Karen Brinkman
James R. Coltharp
Rudolfo M. Baca